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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,343	10/15/2001	J Eric Mowat	67272-8049.US01	5512
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Perkins Coie LLP P.O. Box 1208 Seattle, WA 98111-1208			EXAMINER BILGRAMI, ASGHAR H	
			ART UNIT 2443	PAPER NUMBER
			MAIL DATE 10/16/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/981,343

Applicant(s)

MOWAT, J ERIC

Examiner

ASGHAR BILGRAMI

Art Unit

2443

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-4, 6, 8-19, 21-37, 39-49, 51, 52 and 57-66 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-4, 6, 8-19, 21-37, 39-49, 51, 52 and 57-66 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 15 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ ~~Notes of Informal Patent Application~~
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6, 8-19, 21-37, 39-49, 51, 52, 57-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Rourke et al (U.S. 6,986,018 B2) and Guenther et al (6,134,588).

3. As per claims 1, 15, 20, 23, 26, 31, 32, 34, 37, 41, 42, 49 & 58 O'Rourke disclosed a network proxy caching device (col.1, lines 27-31) to operate within a defined cache hierarchy on a network, the caching device comprising: a cache to store content from an origin server on the network; an application to receive a request for content from a client via the network, and to forward the request on the network based on a set of forwarding rules in the event of a cache miss (col.5, lines 43-56); a user interface to enable a user to specify and modify the set of forwarding rules (col.2, lines 23-33 & col.2, lines 51-67); a rule encoder to encode into a uniform syntax forwarding rules specified by the user (col.2, lines 23-57); a rules database to store the encoded forwarding rules (col.4, lines 10-22); a rule evaluator to evaluate the set of forwarding rules sequentially in response to the cache miss, to identify a rule in the set of

forwarding rules which applies to the request, by identifying a correspondence between a variable in the request and a variable in the rule, the rule specifying a host within the cache hierarchy as a forwarding destination for the request; and a rule engine to determine an availability of the host and to select the host as said forwarding destination for the request if the host is available, the rule engine further to indicate the host to the application layer if the host is available, to cause the application layer to attempt to establish a connection with the host, if more than one host is available as indicated by said rule, to select the host based on a delivery factor included in said rule (col.4, lines 23-33 & col.7, lines 24-28), such that the application layer forwards the request to the host upon successfully establishing the connection (col.8, lines 5-23, lines 51-67, col.9 & col.10, lines 1-4) wherein if the application layer is unable to forward the request according to the rule, the rule evaluator resumes evaluating the set of forwarding rules to identify another rule corresponding to the request (col.8, lines 5-23). However O'Rourke did not explicitly disclose wherein the host is determined to be available if the host responds to a connection attempt within a timeout period. In the same filed of endeavor Guenthner disclosed wherein the host is available if the host responds to a connection attempt within a timeout period (col.5, lines 44-59).

It would have been obvious to one in the ordinary skill in the art the time the invention was made to have incorporated a timeout period policy as disclosed by Guenthner in the rules engine of the caching device as disclosed by O'Rourke in order to make the caching device more resilient resulting in robust connectivity with available servers providing information to the caching device.

4. As per claims 2, 16, 40 & 51 O'Rourke-Guenthner disclosed a device as recited in claim 1, wherein the user may specify one or more of the forwarding rules to indicate a manner of forwarding the request within the forwarding hierarchy (O'Rourke, col.4, lines 10-22 & col.8, lines 5-23).
5. As per claims 3, 17, 24, 35 & 52 O'Rourke-Guenthner disclosed a device as recited in claim 2, wherein the forwarding hierarchy is a cache hierarchy (O'Rourke, col.5, lines 43-56).
6. As per claims 4, 18, 19, 25 & 36 O'Rourke-Guenthner disclosed a device as recited in claim 3, further comprising a cache to store content requestable by a client on the network, wherein the request processing unit forwards the request only in the event of a cache miss, wherein the request is a request for content on the network (O'Rourke, col.4, lines 10-22 & col.8, lines 5-23).
7. As per claims 6, 21, 27 & 28 O'Rourke-Guenthner disclosed an intermediary network node as recited in claim 26, wherein the rule evaluator identifies the rule, which applies to the request by determining that a condition in the rule is satisfied (O'Rourke, col.4, lines 10-22 & col.8, lines 5-23).

8. As per claims 39 O'Rourke-Guenthner disclosed a method as recited in claim 37, further comprising, if said attempting to establish the connection is unsuccessful: determining whether a second available host is indicated in the rule, and if so, attempting to establish a connection to the second available host; and forwarding the request to the second available host (O'Rourke, col.4, lines 10-22 & col.8, lines 5-23).

9. As per claims 8, 33, 29 & 53 O'Rourke-Guenthner disclosed a device as recited in claim 1, wherein said rule comprises a plurality of destinations, and wherein the rule engine selects a destination from among the plurality of destinations as a forwarding destination for the request, based on the delivery factor included in the rule (O'Rourke, col.4, lines 10-22, col.7, lines 24-28 & col.8, lines 5-23).

10. As per claim 9 O'Rourke-Guenthner disclosed a device as recited in claim 1, wherein the at least one delivery factor comprises a specified distribution method for the request (O'Rourke, col.4, lines 10-22 & col.8, lines 5-23).

11. As per claim 10 O'Rourke-Guenthner disclosed a device as recited in claim 1, wherein the at least one delivery factor comprises an indication of a current load on at least one of the destinations (O'Rourke, col.423-33).

12. As per claim 11 O'Rourke-Guenthner disclosed a device as recited in claim 1, wherein the at least one delivery factor comprises a weighting of the plurality of

destinations indicating a preferred distribution of forwarding requests between the plurality of destinations (O'Rourke, col.4, lines 10-22 & col.8, lines 5-23).

13. As per claims 12, 13, 14, 16, 22, 30 & 43 O'Rourke-Guenthner disclosed a device as recited in claim 49, wherein the user interface is further to enable the user to modify the set of forwarding rules, to specify a sequence in which the rules of the set of forwarding rules are evaluated, to selectively enable or disable a default forwarding rule (O'Rourke, col.4, lines 10-22 & col.8, lines 5-23).

14. As per claims 44, 46, 47 & 48 O'Rourke-Guenthner disclosed a method as recited in claim 34, further comprising, prior to said forwarding the request: acquiring information about the forwarding destination, the information being indicative of a responsiveness of the forwarding destination; computing a timeout period based on the information indicative of the responsiveness of the following destination; and using the computed timeout period, in the request, in attempting to establish a connection with the forwarding destination (O'Rourke, col.4, lines 10-22 & col.8, lines 5-23).

15. As per claim 59 O'Rourke-Guenthner disclosed a device as recited in claim 1, wherein the delivery factor comprises an indication of a link bandwidth between the request processing unit and the destination processing unit (O'Rourke, col.7, lines 24-28).

16. As per claims 60-66 O'Rourke-Guenthner disclosed a network caching device as recited in claim 32, wherein the delivery factor comprises at least one of: a specified distribution method for the request; an indication of current load; a weighting indicating a proffered distribution of forwarding requests; or an indication of a link bandwidth (O'Rourke, col.4, lines 23-33 & col.7, lines 24-28)

Response to Arguments

17. Applicant's arguments filed 7/28/2008 have been fully considered but they are not persuasive.

18. Applicant argued that O'Rurke fails to disclose the newly amend limitation which states "if more then one host is available as indicated by said rule, the host is selected based on the delivery factor included in the said rule".

As to applicant's argument the O'Rurke clearly anticipates this limitation and examiner has cited the following excerpts:

Col.4:

In this example, the two sets of cache policies 260 are identical such that the operation of the two cache servers 254 and 255 are the same. Each cache server 254 and 255 stores the same cached content from origin server 252 such that a client could be coupled to either cache server and have access to the same cached content. This configuration assists with the sharing of the content distribution burden on both cache servers 254 and 255. If one cache server is reaching its capacity to distribute content, one or more clients may be redirected to the other cache server to balance the content distribution workload between the two cache servers.

And on col.7:

The cache policies then determine whether the cache server should proxy the requested live broadcast (block 25608). The cache policy may determine not to proxy the requested live broadcast because the bandwidth quotas for the required communication link have been reached.

Conclusion

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ASGHAR BILGRAMI whose telephone number is (571)272-3907. The examiner can normally be reached on 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia L.M. Dollinger can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. B./
Examiner, Art Unit 2443

/Nathan J. Flynn/

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Supervisory Patent Examiner, Art Unit 2454

Application Number

Application/Control No.

09/981,343

Examiner

ASGHAR BILGRAMI

Applicant(s)/Patent under
Reexamination

MOWAT, J ERIC

Art Unit

2443